



**DEVELOPMENT OF NEW RULES CONCERNING A PRIORITY RANKING SYSTEM FOR HAZARDOUS
SUBSTANCES RESPONSE SITES AT 329 IAC 7.1
#06-147(SWMB)**

Overview

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules at 329 IAC 7.1 concerning a priority ranking system for hazardous substances response sites.

Citations Affected

329 IAC 7.1

Affected Persons

There is not specific group of affected persons.

Reason(s) for the Rule

This rule will establish simple procedures and clear criteria for determining the commissioner's (the department's) priorities in ranking hazardous substances response sites.

The new criteria would make the priority ranking system consistent with other site ranking programs, such as the leaking underground storage tank program and will refer to risk-based standards for remediation and closure of the hazardous substances response sites.

Economic Impact of the Rule

There will be no fiscal impact to any regulated community or to IDEM.

Benefits of the Rule

The new rule should allow the department to maximize departmental staff time and resources on hazardous substances response sites that pose the most serious threats to human health and the environment.

Description of the Rulemaking Project

This rule will establish simple procedures and clear criteria for determining the commissioner's (the department's) priorities in ranking hazardous substances response sites. The new rule should allow the department to maximize departmental staff time and resources on hazardous substances response sites that pose the most serious threats to human health and the environment.

The new criteria would also make the priority ranking system consistent with other site ranking programs, such as the leaking underground storage tank program and will refer to the risk-based standards for remediation and closure of the hazardous substances response sites.

Scheduled Hearings

First Public Hearing: November 20, 2007, 1:30 p.m., Indiana Government Center South, Conference Center Room A.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The prioritization of hazardous substances response sites is a state law requirement and is not imposed under federal law.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published that contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule must be approved by the Attorney General and the Governor. When approved, the rule becomes effective 30 days after filing with the Indiana Register.